

the U.S. District Court for the District of Columbia.

(3) *Disclosure of record where request to amend has been denied on appeal.* Where a request to amend a record has been denied by the Solicitor, and the requester has filed a memorandum pursuant to (d)(2)(ii) of this section taking exception to the Solicitor's decision, upon receipt of such memorandum the responsible agency official shall include the memorandum with the relevant record and, in addition, may also include with such record a memorandum indicating that a request to amend the particular record has been denied both by the agency and by the Solicitor, and the reasons therefor.

(i) In addition, previous recipients of a record, where a request to amend has been denied by the Solicitor, and of which an accounting is required by 5 U.S.C. 552a(c), shall be provided with a copy of the requester's memorandum taking exception to the Solicitor's determination, and a copy of the agency memorandum in support of the determination, if such a memorandum has been prepared.

(ii) Any subsequent disclosure of the subject record shall also be accompanied by the requester's excepting memorandum, and the Government's supportive memorandum, if one has been filed.

#### **§ 70a.10 Solicitation of social security numbers.**

(a) Neither the Department nor its component units shall deny to any individual any right, benefit or privilege provided by law because of such individual's refusal to disclose his social security number.

(b) The requirement set forth in paragraph (a) of this section shall not apply with respect to the disclosure of a social security number to the Department, or a component unit thereof, for inclusion in systems of records which were in existence prior to January 1, 1975, and such disclosure was required by statute, Executive order or regulation adopted prior to January 1, 1975, to verify the identity of an individual.

(c) Each component unit of the Department that requests an individual to disclose his social security number

shall provide the individual, in writing, with the following information:

(1) The use or uses that may be made of the social security number;

(2) The statute or authority under which the social security number is solicited;

(3) Whether the disclosure of the social security number is mandatory or voluntary; and

(4) The consequences, if any, to an individual should he or she refuse to disclose the number.

#### **§ 70a.11 Fees.**

(a) *General.* (1) Pursuant to authority granted by the Privacy Act, the payment of standard charges as set forth in paragraph (b) of this section will, except as otherwise provided in this section, be required of the requester to cover the direct costs of duplicating records requested under this part. No fee shall be assessed to any requester for any cost attributed to the search for and the review of any record.

(2) Circumstances under which copying facilities or services may be made available to a requester without charge, or at a reduced charge, are delineated in paragraph (e) of this section. Where a requester desires the agency to provide such services as certification, authentication, or other special services not required under the Privacy Act, with respect to requested records, fees in addition to those required for copying will be assessed as set forth in § 70.68 of this chapter, and as authorized by the general user-charge statute, section 483a of title 31, United States Code.

(b) *Copying charges—*(1) *Fee schedule for copying of records.* The fees payable pursuant to this section for obtaining requested copies of records which have been made available under this part will be computed on the following basis and subject to the following conditions:

(i) *Standard copying fee.* The standard copying fee is \$0.10 for each 8½ by 11 inch page of record furnished. The standard fee is applicable both where the copies are reproduced by the person desiring them, using Government-furnished reproduction equipment, such as coin-operated machines, or where, in the absence of availability of such facilities, the copies are reproduced by

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agency personnel. This standard fee is also applicable to the furnishing of copies of computer printouts as stated in paragraph (c) of this section.

(ii) *Voluminous material.* If the volume of page copy desired by the requester is such that the reproduction charge at the standard page rate would be in excess of \$200, the person desiring reproduction may request a special rate quotation from the Office of the Assistant Secretary for Administration and Management.

(iii) *Limit of service.* Not more than 10 copies of any document will be furnished, unless the requester has received the prior written approval of the Assistant Secretary for Administration and Management.

(iv) *Manual copying by requester.* The Department shall provide facilities for manual copying, without charge, during normal working hours.

(c) *Computerized records.* (1) Information maintained, in whole or in part, in computerized form which is required to be made available under this part, shall be made available as follows:

(i) When there is an existing computer printout, the material shall be made available at the per page rate stated in paragraph (b) of this section for each 8½ by 11 inch page.

(ii) When there is no existing printout of information required to be made available under this part, then the information shall be printed out and made available to the requester in accordance with paragraph (b) of this section.

(d) *Payment of fees—(1) Medium of payment.* Payment of the applicable fees as set forth in paragraph (b) of this section shall be made in cash, by U.S. postal money order, or by check payable to the Department of Labor. Postage stamps will not be accepted. Cash should not be sent by mail.

(2) *Advance payment or assurance—* Payment of the known and officially estimated copying fees shall be made or assured to the satisfaction of the disclosure officer prior to the performance of substantial copying services. Where the requester does not know and has no official estimate of the copying costs at the time the request is made, the request should specifically state that whatever costs will be involved

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pursuant to paragraph (b) of this section will be acceptable, or will be acceptable up to an amount not exceeding a named figure. When it becomes apparent that the duplication cost is going to exceed such named figure, the disclosure officer shall notify the requester as required by § 70a.6(b) of this part.

(3) *Adjustment of fees.* Where an estimated fee, paid by the requester in advance, exceeds the fee chargeable under the applicable schedule for the copying services actually performed, the balance will be refunded by the Department. Where the actual fees due for the services are in excess of the estimate, the requester will be required to remit the difference. In cases where the estimated costs required under the fee schedule for responding to a request are such that an advance deposit is deemed necessary, the disclosure officer shall advise the requester of the estimated costs and the need for an advance deposit. In addition, where it appears that the information sought by the requester might be made available at less cost by revision of the request, the disclosure officer shall indicate to the requester that he or she may confer with knowledgeable Department personnel, if he or she so desires, in order to reformulate the request in a manner which will reduce the fees and meet the needs of the requester.

(4) *Post-copying costs.* The scheduled fees for furnishing copies of records made available pursuant to the Act cover the costs of furnishing the copies at the place of duplication. Where the volume of page copy, or the method of transmittal requested, is such that transmittal charges incurred by the Department are in excess of \$1, then the transmittal costs will be added to the copying fees set forth in paragraph (b) of this section, unless, appropriate stamps or stamped envelopes are furnished with the request, or authorization is given for collection of shipping charges on delivery.

(e) *Waiver or reduction of fees.* (1) When the disclosure officer or the appellate officer granting a request for a record determines that the waiver or reduction of the standard charge would be in the public interest, he or she may make the requested record available at

no charge or at a reduced charge, whichever he or she deems to be appropriate.

(2)(i) Where a copy of a record is made available for the first time to the subject of the record or an individual designated by the subject person, then the disclosure officer shall assess no fee.

(ii) In addition, where it is determined that a person, because of special circumstances, is unable to pay the fees prescribed in paragraph (b) of this section, and it is clear that the public interest would be served by providing the requested information free of charge, then no fee shall be charged for such information.

(f) *Authentication of copies.* Requirements pertaining to the certification or attestation under seal of copies of records required to be made available under this part are the same as the requirements for authentication of copies of records under the Freedom of Information Act as set forth in § 70.68 of this chapter.

#### § 70a.12 Penalties.

(a) *General.* (1) This section sets forth criminal sanctions for three violations of the Act:

(i) Unauthorized disclosure,

(ii) Failure to publish a public notice of a system of records subject to the requirements of this part and the Act, and

(iii) Obtaining access to information under false pretenses.

(2) Paragraphs (a)(1) (i) and (ii) of this section apply to employees of the Department, and pursuant to 5 U.S.C. 552a(m), certain contractor personnel for contracts agreed to on or after September 27, 1975.

(b) *Unauthorized disclosure.* Any officer or employee of the Department, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information, the disclosure of which is prohibited by this part, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any matter to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(c) *Failure to give public notice of a system of records.* Any officer or employee of the Department who willfully maintains a system of records without meeting the notice requirements of section (3)(4) of the Act shall be guilty of a misdemeanor and fined not more than \$5,000.

(d) *Obtaining access to information under false pretenses.* Any person who knowingly and willfully requests or obtains any record concerning an individual from the Department of Labor under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

#### § 70a.13 Exemptions.

(a) *General exemption—(1) General.* Section (j) of 5 U.S.C. 552a permits certain agencies within the Department to promulgate rules in accordance with the requirements of sections 553 (b) (1), (2), and (3) (c) and (e) of title 5 U.S.C., to exempt certain systems of records from all the requirements of the Privacy Act except those set forth in paragraph (a)(3) of this section.

(2) *Systems of records which may be exempt pursuant to the general exemption.* Those types of systems of records which may be exempt from certain provisions of the Privacy Act by virtue of section (j) of 5 U.S.C. 552a are those systems which:

(i) Are maintained by an agency, or a component thereof, which performs as its principal function any activity pertaining to the enforcement of criminal laws, and

(ii) Contain information compiled for the purpose of: (A) A criminal investigation, including reports of informants and investigators associated with an identifiable individual, or (B) identifying individual criminal offenders and alleged offenders, and consists only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status.

(3) *Requirements from which systems are exempt under the general exemption.* Those systems of records which qualify for the general exemption are not subject to any provisions of the Privacy Act, nor any of the provisions set forth in this part, except for the following: